IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.76 OF 2005

Jaywant Narayanrao Dhore & Ors. .. Appellants

Versus

Rajaram Narayan Dhore & Ors. .. Respondents

Mr.S.V.Sadavarte for appellants

None present for the respndents

CORAM : P.V.KAKADE, J.

DATE : 20TH JUNE, 2005.

P.C.:

1. This is an appeal preferred by the appellants against the judgment and order passed by Ad-hoc Addl. District Judge, Pune dated 13.1.2004 allowing the appeal and setting aside the judgment and order passed by Civil Judge, Junior Division, Pune decreeing the suit for partition of the suit property.

2. I heard the learned counsel for the appellants. Perused the record.

3. The suit was filed by the planitiffs for partition and separate possession of the suit properties. The learned trial judge after hearing both the parties adjudicated the dispute and came to the conclusion that the plaintiffs had proved the fact that the property involved was the joint family property including the properties which were stated to be ancestral properties. It was further held that the defendants failed to prove that one property i.e. suit property 1-D was self acquired property of defendant no.1. It was also held that the defendants failed to prove that the suit property i.e. property 1-E was self acquired property of deceased Narayan and finally decreed the suit. The appeal was carried to the District Court, Pune. The learned appellate court heard both the parties and on the basis of available evidence came to the conclusion that the property 1-E was proved to be self acquired property of deceased Narayan. It was further held that the sale deed dated 25.3.1982 executed by Narayan was legal and valid and on such

other ground the appeal came to be allowed. Hence the present appeal.

4. At the outset it may be noted that the dispute pertaining to only property 1-E was carried to the appellate court. The appellate court after hearing both the parties and perusing the evidence recorded the findings to the effect that there was no evidence on record to show that the plaintiff contributed to purchase the impugned property. There was also sufficient evidence on record to hold that it was self acquired property of deceased Narayan and to that extent the appeal was allowed. Perusal of the entire judgement of the lower appellate court shows that the court has appreciated the factual aspects of the evidence correctly and in proper perspective. There is no substantial question of law involved in this appeal and in the result the appeal stands dismissed with no order as to costs.

. Consequently the civil application no.1581 of 2004 also stands dismissed with no order as to costs.

5. At this stage the learned counsel for the

appellant prays for Stay of this Order. In view of the facts and circumstances the order stands stayed for six weeks.